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In re Application of: Daniel J. Sweigard	:	PETITION IN REGARD TO
	:	AMENDMENT
Application No. 10/509,928	:	ENTRY
Filed: October 1, 2004	:	UNDER 37 C.F.R. 1.181
For: Clip for Fire Detector Wire	:	

This is in response to applicant's Petition Under 37 CFR 1.181 From Examiner's Refusal to Enter an Amendment Under 37 CFR 1.111 filed on February 16, 2007.

The petition is **Denied**.

An Office action was mailed October 4, 2005 including a rejection of claims 1-4. In response thereto applicant filed an amendment on January 6, 2006 that included arguments as to why the rejection of claims 1-4 was in error and the addition of new claims 5-20. The examiner mailed a notice of non responsive amendment on March 24, 2006 indicating that applicant did not point out how the new claims read over the rejection of record as required under 37 CFR 1.111.

The petition states that on April 19, 2006 applicant spoke with the examiner and the examiner indicated that she would consider applicant's arguments presented in the January 6, 2006 amendment to be sufficient, that the notice of non responsive amendment would be withdrawn and a new Office action prepared. The petition further states that the examiner indicated that no response was needed by applicant and no interview summary was needed.

The record shows that the examiner did not mail out any new action, applicant did not file any response and a notice of abandonment was mailed out April 6, 2007.

The petition requests that the amendment filed January 6, 2006 be entered as a proper amendment.

The petition includes copies of a telephone record showing a call was made to the examiner's phone number and a copy of an email from applicant's attorney to applicant

in regard to the phone conversation that applicant allegedly had with the examiner. When queried the examiner could not directly recall having or not having the interview. Unfortunately, without an interview summary in the file record there is no established record of any agreement or consent the examiner might have made. 37 CFR 1.2 states in part "The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is a disagreement or doubt."

Accordingly the petition is Denied. The application is currently in abandoned status. It is suggested applicant file a petition to revive an abandoned application if applicant wishes to continue prosecution of this application.

Summary: *Petition is DENIED.*


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CF 05/16/07

